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Attorney's Practice
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The METHOD, TIMES and EXPENCES of
Proceeding in the Courts of

King's Bench and Common Pleas.

From the Commencement of a Suit, to the Trial, final Judgment and Execution; so advantageously placed in opposite Columns, as to shew at one View, the Agreement or Difference in the Practice of the said Courts: Whereby many Defaults and Irregularities (which frequently happen) may be prevented, and Business transacted, either in *Town* or *Country*, with Ease, Expedition and Certainty.

*Perused by several Officers of the Courts, and by many
Eminent Attornies and Agents in London.*

The Ninth Edition, Corrected; with Additions.

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In the SAVOY:

Printed by CATHERINE LINTOT, Law-Printer to the King's Most Excellent Majesty, for J. Mozrall, at the Dove in Bell-Yard, near Lincoln's Inn; and P. Arel, in the Inner Temple Lane, opposite Chancery-Lane, Fleet-Street.

Actions.

Within what Times to be brought.

CASE, except for Slander; *Account*, except concerning Merchandize between Merchant and Merchant; *Trespass*, Debt, (except on Specialty;) *Detinue*, *Trower*, *Replevin*, and *Trespass quare clausum fregit*, to be brought in six Years after Cause of Action. *Affault*, *Menace*, *Battery*, *Wounding* and *Imprisonment*, in 4 Years; and *Slander* in 2 Years: But Infants, Feme Coverts, Persons *Non Compos Mentis*, imprisoned or beyond Sea, may sue within said Times after full Age, Discover, Sane Memory, at large, or returned, &c. Stat. 21 Jac. 1. c. 16.

Affidavit for Bail.

When Debt. is to be held to Special Bail, as when the Debt is 10*l.* or more, Affid. of the Cause of Action must be made, which may be sworn before a Judge, Comr. of the Court, or the Officer or his Deputy, who issues the Process. Stamp 1*s.* Oath 1*s.* Nothing filing; but where the Debt is under 10*l.* the Debt. is not to be arrested and held to Bail, but must be served with a Copy of the Process only. And Note; The Courts at *Westm.* will take Cognizance of no Action where the Debt is under 40*s.*

Process.

King's Bench.

Of Suing it out.

Common Pleas.

Bill of Midd.] Make a Præcipe, get a Blank Bill, (1*s.* 6*d.* $\frac{1}{2}$) fill it up; carry the Præcipe, Bill, (and Affid. if bailable) to the Bill of *Middl. Office*, and the Officer will sign it, (in Term 6*d.* in Vac. 10*d.*) It is not to be sealed. If bailable, the Sum sworn to must be indorsed: And if it is not executed before the Return, sue out an *Al'*, or after that a *Plur'* (signing each 2*d.*) For a *Non Omit.* Bill pay the same as for a Common Bill.

Lat.] Make a Præcipe, get a Blank (1*s.* 6*d.* $\frac{1}{2}$) fill it up; carry the Præcipe, *Lat.* and Affid. (if bailable) to the *K. B. Office*, and Mr. *Heberden* will sign the *Lat.* (2*s.* 6*d.*) Sealing 7*d.* If bailable, the Sum sworn to must be indorsed. If *Lat.* be not executed, sue out an *Al'*, (or after that a *Plur'*.) Pay nothing for signing either. 7*d.* Sealing each. After the 1st *Plur'* a 2d &c. for 4 Terms from the suing out the *Lat.* and after that a new *Lat.*

goes out of the County, make out a *Test. per Con.* into the County where he is gone to. To Filazer for *Test.* 6*s.* 6*d.* 4*s.* 4*d.* Sealing 7*d.*

Ca.] Make a Præcipe; take it to the proper Filazer, (and the Affid. if bailable) and he will make out the *Ca.* Pay, if he finds St. 3*s.* 8*d.* if 4 Defts. or less. Then get it sealed at the Seal Office. If bailable, the Sum sworn to must be indorsed. And if it is not executed before the Return, sue out a *Ca.* by *Con.* (to the Filazer 2*s.* 4*d.* and for every *Post Ter'* 4*d.* Sealing 7*d.* and after that another *Con.* &c.

Test. Ca.] If the Action is bailable, and the Debt. lives in one County, and you would try the Cause in another, make out a *Test.* into the County where Debt. lives; in which Case only a *Test.* is necessary; but otherwise, if you declare out of the County, the *Plt.* will lose his Bail; but on a common *Clausum fregit*, *Plt.* may declare in any County on any Cause of Action. Make a Præcipe, &c. as before. Or if you take out a *Ca.* and before it is executed Debt.

goes out of the County, make out a *Test. per Con.* into the County where he is gone to. To Filazer for *Test.* 6*s.* 6*d.* Sealing 1*s.* 2*d.* and for *Test. per Con.*

K. B.

Non Omittas.] If Deft. lives in a Liberty, sue out a *Non Omit.* If a *Lat.* has been sued out before, pay nothing signing and sealing; if not, 2 s. 6 d. signing, and 1 s. 2 d. sealing.

Att. of Privilege.] Make a *Præcipe*; ingross the Att. (Stamp 1 s. 6 d. get it sign'd by Mr. Heberden, pay him nothing, unless Affidt. 1 s. Seal. 7 d.

C. P.

Non Omittas.] If Deft. lives in a Liberty, you may sue out a *Non Omit.* by making a *Præcipe*, &c. as before. Pay to the Filazer 8 s. Sealing 1 s. 2 d. and for a *Non Omit. Test.* to Filazer 11 s. 4 d. Sealing 1 s. 9 d.

Att. of Privilege.] Make a *Præcipe*; ingross the Att. (Stamp 1 s. 6 d.) get it mark'd by the Clerk of the Warrants, sign'd by Prothon. (nothing paid for either.) Seal. 1 d.

Of Executing it.

When an Action is notailable, Deft. is to be personally served with Copy of Process, with Notice subscribed of the Intent of the Service: But ifailable, give the Writ to a Sher. Officer, who will get a Warrant thereon (in *Middlesex* 4 d. *Essex*, *Surrey* and *Kent* 6 d. in *Westm.* Warrant from High Bailiff 2 s. 4 d. in other Counties Sheriff's Warrant usually 2 s. 6 d.) upon which he will arrest Deft.

Common Bail.

With whom to be filed.

With Clerk of the Com. Bails. Pay in Term 1 s. 2 d. but if not filed before Vac. of same Term, Process is returnable, 4 d. more for *Post Ter.* But you don't pay for another *Post Ter.* till the Vac. of the subsequent Term.

When to be filed.

By Defendant in 8 Day after Return of Process; or after then, By Plaintiff, according to the Stat. Affidavit of serving Process being made, which may be sworn before a Judge, Comr. or Officer for entering common Appearances, or his Deputy, and filed gratis. Stat. 5 Geo. 2. c. 27.

With the Clerk of the Rules.

With whom to be entered.

Must be entered with the Officer where the Process issued, as upon a *Ca.* with Filazer, and upon Attach. of Privilege with Prothon. Pay 3 s. 4 d. Pay at Filazer's 2 s. for one Deft. Several sued jointly, 2 s. for 1st Deft. and 4 d. every other Deft. If sued separately 2 s. every Deft.

When to be entered.

Where the Appearance is entered.

Special Bail on Capi Corpus.

K. B.

When to put it in.

C. P.

If Deft. be arrested in *Lond.* or *Middlx.* he must put in special Bail to the Action; in 4 Days (*exclusive*) after Return of the Process in *B. R.* or after App. Day in *C. B.* or the Bail Bond may be assigned. And if arrested in any other County,

In 6 Days, *Mich.* 8 Ann.

In 8 Days *Hil.* 9 Ann.

But if the last Day of the said Times hap. on a Sunday, it may be put in the next Day.

How to put it in.

1. In London.

Ingross the Bail Piece on a double 1 s. stamp'd Piece of Parchment; carry it to a Judge's Chambers, and having the Bail with you ready, apply to the Judge's Clerk to take the Bail, to whom you pay 4 s. in Term, and 5 s. in the Vac.

Go to the Filazer; and he or his Clerk will attend the Court or Judge to take the Bail, which in *London* and *Middlesex* is done by an Entry in the Filazer's Book, and not by a Bail-Piece; and if it is *ad se.* a privileged Person, the Prothonotary's Clerk will attend the

the Court or Judge. But in the Filazer's Absence it may be taken in the Judge's Chambers on bringing a true Abstract of the Writ. Pay 5 s. in Term, and 12 s. in Vac. at the Judge's, and 4 s. 6 d. to the Filazer.

K. B.

2. In the Country.

C. P.

Take the Bail-Piece to a Comr. of the Court, and he will take the Recognizance. Affidavit of taking it must be made either before a Judge of the Court to whom the Bail-Piece shall be transmitted, or before a Comr. which must be annexed to the Bail-Piece.

Notice of putting it in.

1. Immediately after putting in Bail before a Judge, Notice thereof should be given to the Plaintiff's Attorney that he may inquire into the Sufficiency of it.

2. If put in before Comrs. Notice must be given within 4 Days after Caption. M. 13 Geo. 1. C. B.

K. B.

When to be Transmitted.

C. P.

If taken by a Comr. within 40 Miles of London and Westminster, to be Transmitted to a Judge of the Court, to be by him allowed.

In 8 Days after Caption.

In 10 Days after Caption.

And if taken above 40 Miles from London and Westminster,

In 15 Days.

In 20 Days.

Unless all the Judges be in their Circuits, and then as soon as any of them returns to London. T. 4 W. & M. B. R. & E. 5 W. & M. & H. 6 Geo. 1. C. B.

When Filed, after Transmitted.

In C. B. as soon as Bail-Piece is Transmitted, it must be filed with Filazer (pay him 6 s.) or Prothonotary, as the Case is. H. 6 G. 1. M. 6 G. 2. But not without Leave of Court, if not Transmitted in the Times above limited. M. 6 G. 2. But in B. R. it remains at the Judge's Chambers till the Bail is perfected.

K. B.

Excepting against Bail.

C. P.

1. In what Cases.

After Assignment of Bail Bonds, if same Bail be put in above as were Bail to the Sheriff, Plaintiff may not except against it. Adjdg'd Mich. 1742. Pyke versus Pindlebury.

In all Cases wherein Bail-Bonds are taken, and the same Bail is put in above, Plaintiff may except against it. M. 6 G. 2.

Bail can't be excepted to after Decl. deliver'd, unless it be deliver'd *De bene esse*.

2. In what Times.

If put in before a Judge, Exception to be in 20 Days after Notice of putting it in, (M. 16 C. 2. B. R.) and not afterwards, (M. 8 A. B. R.) Same Practice in C. B. If put in before a Comr. Exception to be within 20 Days after Transmitted, and Notice of taking thereof. T. 4 W. & M. B. R. & E. 5 W. & M. C. B.

3. How to except against Bail.

Exception against Bail is made in the Bail-Book at the Judge's Chambers.

Except. is made in Lond. and Middlx. in the Fila. Book, and in other Counties under B. Piece filed at the Fila. of the Co.

4. Notice of Exception.

To be given in Writing to Defendant's Attorney or Agent. E. 5 G. 2. B. R. Same Practice in C. B.

5. When Filed, where no Exception.

In B. R. if Bail be not excepted against within 20 Days after Notice of putting it in, then upon Affidavit of the Notice indorsed on the Back of the Bail-Piece (for which Oath no Fee to be taken) the Bail to be filed by Defendant's Attorney, within 4 Days after the End of the said 20 Days. Mich. 16 C. 2.

K. B.

Perfecting Bail.

C. P.

1. *When.*

If *Not. of Except.* be given in *Term*, the Bail must justify in 4 Days after such Notice, or *Def.* must add other Bail, who must justify within the said 4 Days. But if *Except.* and *Not.* thereof be in *Vac.* the Bail put in, or additional Bail, must justify on 1st Day of next *Term*. *E. 5 G. 2.*

The Defendant must perfect his Bail in 4 Days after Exception, or Plaintiff may proceed on the Bail-Bond. *T. 3 & 4 G. 2. N. B.* This Rule must be intended when Exception and Notice is in *Term*, as in *B. R.*

2. *Notice of Justifying.*

2 Days Notice of Justification must be given, exclusive of the Day it is given, and if *Sunday* intervenes, 3 Days Notice.

3. *Where.*

Justification must be in Court; but by Consent of Plaintiff's Attorney, it may be at a Judge's Chambers.

4. *How.**In Court.*

Get the Clerk of the Judge before whom the Bail was taken, to bring the B. Piece into Court. (Pay him 2s. 6d.)

Get the Filazer or his Deputy to attend with the Bail-Book or Bail-Piece. (Pay him 3s. 4d.)

Have the Bail ready with you in Court, and move by Counsel to justify, by Oath in Court. But if the Bail be taken before a *Comr.* and an Affidavit be made before a *Judge*, or the *Comr.* the same may be read in Court for Justification. *T. 4 W. & M. B. R. E. 5 W. & M. C. B.*

Before a Judge.

The Bail-Piece remains at the Judge's Chambers till the Bail be perfected: Bring the Bail there to justify; pay in *Term* 1s. in *Vac.* 2s. each Person.

Get the Filazer to attend at the Judge's Chambers, (pay him 3s. 4d.) and have the Bail there. Pay at the Judge's 2s.

Note; When Bail is taken in the Country, an Affidavit of Justification is usually annexed to the Bail-Piece, and then Exception is seldom taken; but if it be, the Affidavit may be produced either in Court or by Consent before a Judge for Justification: But to prevent Exception when you give Notice of the Bail put in, 'tis usual to send a Copy of the Affidavit of Justification with it.

Filing Bail.

When Bail is accepted, the Bail-Piece must be filed with Mr. *Heberden*. Pay 4d.

On Bail being put in before a Judge, or transmitted from a *Comr.* it is immediately filed with the Filazer.

Declaration.

K. B.

Drawing and Ingrossing it, &c.

C. P.

To be ingrossed on double 1d. stamp'd Paper, and charg'd on the Back: Copy per fo. 4d. and the Duty.

Warrant in any Action 4d. Filing Common Bail according to the Statute 6s. 8d.

Warrant in *Debt, Trespass, and Detinue*, 4d. in other Actions 8d. App. according to the Stat. 5s. 4d. If at the Suit of an Attorney 6s. 8d.

*Delivering or Filing it.*1. *When Defendant appears.*

If Defendant's Attorney has appeared, Plaintiff's Attorney must deliver Decl. to him, whereupon he must pay for the same, Duty and Warrant; or on Refusal by him, or his Clerk in his Absence, or if his Abode be unknown, it may be left in the Office,

Office, and then on Notice thereof to Defendant or his Attorney (from the Time of giving said Notice, and not before, Decl. is well delivered) and on Rule to plead given, Judgment for Want of Plea may be signed. And no Plea may be received till Decl. &c. paid for. *T. 12 W. 3. & T. 2 G. 2. B. R.* Same Practice in *C. B.*

2. *When Appearance entered according to the Statute.*

In all Cases where Copy of Process is served, and Co. Bail is filed, or Appearance entered, according to the Stat. Copy of Decl. must be left in the Office, and Notice thereof given to Deft. or left at his last or usual Place of Abode, from the Time of which Notice Decl. is well delivered; and if Deft. don't plead within the Time limited, (a Rule to plead being given, and out) Judgment may be signed without further calling for Plea. *Trin. 1 G. 2. B. R. Mich. 1 G. 2. C. B.*

3. *General Rule for delivering Declaration on Process returnable 1st or 2d Return.*

Upon all Process ret. 1st or 2d Ret. of any Term, if Plaintiff declares in Lond. or Mid. and Deft. lives within 20 M. of Lond. Decl. must be delivered with Not. to plead within 4 Days after Deliv. in which Time Deft. must plead without Impar. And if Plaintiff declares in any other County, or Deft. lives about 20 Miles from Lond. Decl. to be deliv. with Not. to plead in 8 Days without Impar. or Judgment may be signed. *Trin. 5 & 6 G. 2. B. R. Mich. 3 G. 2. & East. 3 G. 2. C. B.*

4. *Of delivering Declaration on Process, returnable on other Returns.*

If the Process be ret. on any other Return, the Deft. is intitled to an Impar. and in such Case Not. to be, for Deft. to plead within first 4 Days of next Term.

K. B. When it may be delivered De bene esse. C. P.

Upon all Process returnable 1st or 2d Return of any Term, Declaration may be delivered *De bene esse* at the Return of the Process, with Notice to plead.

If no Affid. of the Cause of Action be filed in 8 Days after the Deliv. and if Deft. don't file Com. Bail, and plead in said 8 Days, Plaintiff may file Com. Bail accord. to the Stat. and sign Judgment, Rule to plead having been duly entered. But if such Affidavit be filed, then in 4 Days after Delivery, if the Action be laid in Lond. or Mid. and Deft. lives within 20 Miles of Lond. and in 8 Days if in any other County, or Deft. lives above 20 Miles from Lond. and if Deft. puts in Bail, and does not plead in the said respective Times, Judgment may be signed, a Rule being duly entered. *M. 10 G. 2.*

As in the General Rule beforementioned. And where a Common Appearance is only required, if Defendant does not enter it, and plead in Time, (a Rule to plead being given) Plaintiff may enter Appearance according to the Statute, and sign Judgment: And where Defendant has put in *Special Bail*, and does not plead in Time, (a Rule to plead being given, and the Time out) Judgment may be signed by Default. *M. 3 G. 2.*

When it may be delivered by the By.

If a Defendant is in Custody of the Marshal, *ad secl.* *J. S.* or has filed Com. Bail to an Action at his Suit, any other Plaintiff may declare against him of the same Term he is committed, or put in Bail, without taking out further Process for him to answer. *Lil. Pract. Regist. Tit. Decl.*—And where Plaintiff in any Action files Com. Bail according to the Statute, he may deliver a Decl. by the By against Deft. but no Person except such Plaintiff may deliver a Decl. by the By against any Deft. by reason of the same Com. Bail being filed. *M. 10 G. 2. B. R.*

K. B. Imparlance. C. P.

If a Decl. be not delivered or filed, and also Notice of the filing given before last 4 Days of Term, Deft. is intitled to an Impar. of course. And so he is if Decl. be on Process return. any other Ret. than 1st or 2d.

K. B.

K. B.

Rule to Plead.

C. P.

To be given with the Clerk of the Rules (1 s. 4 d.) and (by Rule of Trin. 1 G. 2.) Deft. must plead within 4 Days (*exclusive*) after it is given.

To be given with the proper Secondary (1 s. 4 d.) which (by M. 1654.) will be out in 4 Days, inclusive of the Day whereon it is given: But Judgment may not be signed till the Afternoon of the next Day.

Sunday, or any Holy-Day, on which the Court does not sit, is reckoned a Day within the said Rule, except it happens to be the last of the 4 Days.

Demanding Plea, &c.

Pleadings to be demanded by Note in Writing. (In C. B. before Nine in the Evening.) Where Decl. is filed, and Notice thereof given, (unless *De bene esse*) there's no Need of further calling for Plea. E. 10 G. 2. C. B. Same Pract. in B. R.

If Plea is demanded after Rule for Pleading is out, the Defendant has only to the Ast. of the next Day to plead.

K. B.

Searching for Plea.

C. P.

Before you sign Judgment, search the General Issue Book with Mr. Child; and if no Plea there, search the Plea Book with the proper Clerk of the Papers. *Vide Tit. Plea.*

Before you sign Judgment, search the Plea Book at the Prothonotary's Office, for a Plea.

K. B.

Plea.

C. P.

General Issue] Enter it in a Book with Mr. Child (pay 4 d.) or may be written on Stamp, and delivered as in C. P. which is most usual, which Book Pltff's Att. may search; and when he finds a Plea entered, he writes it in Form after his Decl. and delivers the Issue.

General Issue is pleaded on Do. 1 d. St. No Counsel's Hand, and delivered to Plaintiff's Attorney. But if he's not to be found, or if he refuses to accept it, it may be left in the Prothonotary's Office. M. 1654.

Special Plea to be written on Do. 1 d. St. signed by Counsel, (in C. P. by a Serjeant; *Comperuit ad diem, Son Assault Demiesne, Plene Administavit, Riens per Discent, Ne unques Executor, Nul tiel Record, Per Minas, Per Dures, Infra Ætatem, and Solvit ad Diem*, need no Serjeant's Hand; but *Non Assumpsit infra sex annos* does. Co. Rep. & Ca. Pra. C. B. 41.) and if dilatory, Affidavit of the Truth thereof must be annexed.

It must be left with the Cl. of the Pa. if Plaintiff's Name begins with A. with Mr. Benton, B. with Mr. New, and so alternately through the Alphabet.

It may either be delivered to Deft's Attorney (which is the usual Way) or filed with Prothon. and then Deft's Attorney must take it out of the Office.

When to Plead.

For the Times of Pleading, see the General Rules, Tit. Decl. In *Abatement*, Deft. must plead in 4 Days after Decl. delivered or filed; unless in Vac. and then he has 4 Days in the next Term to plead, as of preceding Term.

K. B.

Replication, Rejoinder, &c.

C. P.

To compel Plaintiff to reply, get a 4 Days Rule from the Master, which you enter with the Cl. of the Rules, and serve on Pltff's Attorney (pay 1 s. 4 d.) and if he does not reply in Time, Demand being made, sign *Non prof*.

To compel Plaintiff to reply, give a Rule with the Secondary (for which pay 1 s. 4 d.) and demand a Replication. Such Rule and Rule to rejoin, may be given within 16 Days after Term.

K. B.

K. B.

Paper-Book.

C. P.

Carry Decl. to Cl. of the Papers, and he will make up Paper-Book, and give Rule for Defs. to receive, and return it to be entered in 4 Days. (Pay Cl. Pa. 10 *d.* per Fo. besides Stamps.) Deliver Paper-Book to Defs. Attorney, with Notice of Trial on the Back, and if he does not return it according to the Rule, sign Judgment, and execute Inquiry; but if he returns it in Time, and pays you 8 *d.* per Fo. for the Pleadings on his Part, and 4 *d.* per Fo. for the Pltff's Entries, proceed to Trial.

K. B.

Issue.

C. P.

When Issue is joined, make it up; copy the same on Do. 1 *d.* Stamp Paper to deliver. Charge on the Back.—Copy 4 *d.* per Fo. the Duty 2 *d.* every Sheet.

And Ent. Plea 1 *s.*And Ent. Plea 2 *s.*

Which, upon the delivering to Defendant's Attorney, he must pay. And upon the Back of the Issue you generally write the Notice of Trial.

K. B.

Notice of Trial.

C. P.

I. *At the Sittings in London and Middlesex.*

If Defendant lives within 40 Miles from London, 8 Days Notice, exclusive of the Day 'tis given. If above 40 Miles, 14 Days exclusive. 2 Lilly 242. B. R. M. 1654. C. B. By Stat. 14 Geo. 2. c. 17. 10 Days at least.

II. *At the Assizes.*

Ten Days at least. Stat. 14 Geo. 2. c. 17.

III. *On an old Issue, &c.*

If a Cause has been 4 Terms after Issue joined, and in all Cases where there have been no Proceedings for 4 Terms, exclusive of the Term in which the last Proceeding was had, a Term's Notice must be given. Such Notice to be given before the Effoin-Day of the 5th or other subsequent Term; a Judge's Summons, if no Order made, is no Proceeding; but a Notice of Trial, tho' countermanded, is. M. 1654. and E. 13 Geo. 2. C. B. Same Practice in B. R.

IV. *New Notice.*

If Notice be given, and Cause not tried, but Plt. defers it longer than one Term after, a Term's Notice to be given. But if he tries it next Term after, no Need of new Notice.

If Notice of Trial be given for a Sitting in Lond. or Mid. and the Cause not then tried, Plt. may try it the next Sitting on 2 Days Notice; but if not tried then, new Notice must be given. 2 Lilly 236. And if Defendant enters a *Ne recipiatur* in Lond. or Mid. and thereby hinders Plt. from trying his Cause that Sitting; he may try it the next Sitting, upon giving Not. during the first Sitting. Mich. 4 An.

If Plt. gives Notice of Trial, and proceeds not, he can't try it without new Notice as before, unless by Consent or Rule of Court. M. 1654.

In London or Middlesex if Notice be given for one Sitting, and the Plt. is not ready, he may give Notice before that Sitting, that he will try it the next Sitting. M. 1654.

V. *Before Issue joined in C. P.*

To prevent Delays in trying Causes, where a Plt. in Pleading concludes *ad Patriam*, Defs. Attorney to accept Notice of Trial upon the Back of such Pleading, whether the same be delivered or left in the Office, which Notice shall be as good as if Issue joined. T. 2 Geo. 1. C. B.

Countermand

Countermand of Notice of Trial.

To be deliver'd in Writing at least 6 Days before the intended Trial. *St. 14 G. 2. c. 17.* Unless at theittings, and Deft. lives within 40 Miles, then 2 Days before.

Brief.

To contain an Abstract of the Pleadings, a State of the Case, the Proofs necessary to be made, and what is supposed will be objected, with answers to those Objections.

K. B.**Record of Nisi Prius.****C. P.***How passed.*

To be ingrossed on a double 2s. 6d. stamp Parchment. The Issue, or an *Incipitur* thereof, to be entered on the Roll. Carry the Record and Roll to

Mr. Child, and the Issue Paper. Pay him for entering Issue not exceeding 10 Sheets, 3s. 6d. and 1s. for every 6 more. Then to Mr. Tully, to whom pay 7s. 6d. for the first 8 Sheets of the Record, and 7s. for every 8 more; and if above 3 Weeks from End of Term 2s. for Judge's Warrant, and if on an old Issue, 2s. more.

The Prothonotary who signs the Record, pay 1s. and for entering Issue 2s. a Count. or if Special 8d. *per Fo.* File Warrants of Attorney with the Cl. of the Warrants, or carry them with the Record to the *Nisi Prius* Office, and the Clerk of the *Jurata's* will examine the *Jurata*; pay atittings 1s. at Affize 6d. and then deliver the Warrants of Attorney (if not already filed) and the Record

to Mr. Brougham, (who will take the Fee for the Warrants.) Pay him 2s. for first 3 Sheets, and 4d. for every other Sheet, and 2s. 2d. for the Seal. If 3 Weeks after Term, 2s. for Judge's Warrant.

K. B.**Ventre Facias.****C. P.**

You may buy a Blank at a Stationer's, (1s. 6d. $\frac{1}{2}$) fill it up.

Not to be signed.

Sealed (7d.) and returned by the Sheriff, (2s. or 2s. 6d.)

Get it signed by the Prothon. 1s. 4d.

Distr' Jur'.**Ha' Corpora.**

Get a treble 6d. stamp Piece of Parchment, write the *Distringas*. Not to be signed. Sealing 7d.

Get a Blank (1s. 6d. $\frac{1}{2}$) fill it up, carry it with the *Ven.* to the Petty-Bag-Office, and the Clerk will examine and sign it. (Pay in *Lond.* or *Mid.* 2s.

at Affizes 1s. 9d.) Sealing 7d. No *Præcipe* is made for the Office. If the Cause be not tried at the Time mentioned in the *Ha' Corpora*, make out a new one; but if you carry the old one, you save 1s. 1d. Which Writs of *Distringas* or *Ha' Corpora* must be returned by the Sheriff.

Subp. ad Test'.

Get a Blank (1s. 6d. $\frac{1}{2}$) fill it up; 4 Witnesses may be in one Subp.

Make a Note for the Office.

No Note for the Office.

Signed by Mr. Heberden, 1s. 8d.

Signing by Prothonotary 1s. Sealing

Sealing 7d.

7d.

Each Witness must be served with a Ticket, and paid 1s.

K. B.**Entering Causes for Trial.****C. P.**

I. In London or Middlesex.

Causes for Trial must be entered in the Marshal's Book 2 Days at least exclusive before the Sitting whereon they are to be tried, or the Marshal may enter a *Ne Recipiat* at Defendant's Request. 15 & 16 C. 2. B. R. East. 1 Jac. 2. C. B.

K. B.

C. P.

But by Notice fixed up in K. B. Office, M. 17 G. 2. No Record or Writ of *Nisi Prius* will be received at any Sitting after Term in *Middx.* unless delivered to and entered with the Marshal within 2 Days after the last Day of every Term; nor at any Sitting after Term in *Lon.* unless delivered to and entered with the Marshal the Day before the Day to which the Sittings in *Lon.* shall be first adjourned. And every *Nisi Prius* Cause in *Lon.* and *Mid.* must be tried in the Order in which it is enter'd, (beginning with the *Remanets*) unless ordered to the contrary by the Judge, on reasonable Cause shewn.

But by Not. put up in the Proth. Office, H. 8 G. 1. No Recip. shall be entered for the Sittings of *Nisi Prius* after every Term, unless the Record and Writ be brought into Court on or before the Days and Sittings respectively.

II. At the Affizes.

The Writ and Record to be entered with the Marshal before first Sitting of the Court after Commission Day, except in the Counties of *York* and *Norfolk*, and there before first Sitting of the Court on the 2d Day after the Commission-Day. And every Cause must be tried in the Order it is entered in, unless the Court orders otherwise. T. 10 & 11 G. 2. & H. 14 G. 2. By the twelve Judges.

K. B.

Postea.

C. P.

After Trial in *Lon.* or *Mid.* the Associate will deliver the Record with the *Distr.* and Pannel annexed; and then you indorse the *Postea* yourself on the Back of the Record. But after Trial at the *Affizes*, the Associate keeps the Record and *Distr.* till the next Term, and in the Interim indorses the *Postea*. And (by T. 2 Jac. 1. B. R.) *Posteas* must be marked by Clerk of the *Posteas* within 2 Days after it is received; pay him 4 d.

The Associate writes the *Postea*. If tried in Term, call on him about the 5th Day after; and if tried in Vac. call the 5th Day of the ensuing Term.

K. B.

Rolls.

C. P.

When to be carried in.

Those of *Trin.* *Mich.* and *Hil.* Terms, before the *Essoin*-Day of every subsequent Term; and of *East.* Term before the 1st Day of *Trin.* Term. M. 5 A.

Those of *East.* Term, on or before 1st Day of *Trin.* Term; of *Trin.* Term, on or before *Mich.* Day; of *Mich.* Term, at or before 6 *Jan.* and of *Hil.* Term, 4 Days before *East.* Day. E. 34 C. 2.

Docketing

Entries.

Get Numbers for your Rolls, from the *Nisi Prius* Office, or from Mr. *Herberden*, docket your Entries on a Piece of unstampt Paper, carry them to Mr. *Child*, pay him 3 s. and to Mr. *Tully* 4 d. each Warrant.

When you carry in your Rolls, docket your Entries at the Prothon. Office, on the Docket-Roll of the Term of which they are entered. Pay nothing.

K. B.

Final Judgment.

C. P.

After the *Postea* is marked, if Plt. had a Verdict, give a Rule for final Judgment with Cl. of the Rules (1 s. 4 d.) which will be out in 4 Days, if *Sunday* don't intervene; in which Time Deft. may move in Arrest of Judgment; but if he does not, stamp the *Postea* (do. 2 s. 6 d. St.) and thereupon the Master will sign Judgment, and tax the Costs. No Need of such Rule after Nonsuit.

No Rule for final Judgment to be given, but you stay the same Time as in B. R. After which stamp your *Postea*, (do. 2 s. 6 d. St.) upon which the Prothonotary will sign Judgment, and tax the Costs. Immediately after it is signed, the *Postea* must be delivered to the Cl. of the Judgments. 13 G. 2. Pay him 2 s.

K. B.

K. B.

Execution.

C. P.

A *Ca. Sa. Fi. Fa.* or an *Elegit*, must be written on a treble 6*d.* Stamp.

Neither *Ca. Sa.* nor *Fi. Fa.* to be signed, Sealing 7*d.* each. *Elegit* to be signed by Mr. Heberden, (1*s.* 8*d.*) and sealed (7*d.*)

Ca. Sa. or *Fi. Fa.* must be signed by the Prothonotary (4*d.* each) and sealed (7*d.* each) and if a *Tessat.* 8*d.* Signing, and 1*s.* 2*d.* Sealing.

Surrender in Discharge of Bail.

Bail sued in *Debt* or *Recog.* in *B. R.* has 8 Days after Return of the Process to surrender Deft. (T. 1 A.) In *C. B.* on or before the Return of Process. (M. 1654.) And being sued by *Sci. Fa.* he may be surrendered at any Time before the Return of the *Sci. Fa.* if ret. *Sci. Feci.* or of the *Ad Sci. Fa.* if the 1st be returned *Nihil*, &c.

Non-pros.

If Plt. does not declare, either of the Term the Writ is returnable, or before the End of the ensuing Term, Deft. having appeared, and in *C. B.* given a Rule to declare either at the End of the said ensuing Term, or in 4 Days after, and demanded Declaration by Note in Writing, (which Rule is not given, nor Demand made in *B. R.*) may sign a *Non-pros* at any Time in the Vacation of such ensuing Term, and not after. *Inst. Cler.* 74. *B. R. Reg. Hil.* 9 A. *Not. Mich.* 1 G. 2. *C. B.*

K. B. Judgment by Default or Confession. C. P.

Make an *Incipitur* of the Decl. on a double 1*d.* St. if the Judgment be interlocutory, or on a double 2*s.* 6*d.* St. if it be final; and an *Incipitur* on the Roll.

Carry them to Mr. Child, and he will sign Judgment; and if it is final, get the Master to tax the Costs.

Make out Warrants of Attorney, file them with the Clerk of the Warrants, (pay in *Debt*, *Trespass*, and *Damages*, 4*d.* each, in other Actions 8*d.* each) and

he marks the Judgment-Paper, then carry it, with the Draught of the Declaration, to the Prothonotary, who signs Judgment.

K. B.

Writ of Enquiry.

C. P.

I. Notice of executing it.

If executed in *London* or *Middlesex*, and Defendant lives within 40 Miles from *London*, 8 Days Notice exclusive to be given; if he lives above 40 Miles, 14 Days exclusive. And if executed in the Country, 8 Days Notice exclusive. M. 1654. *C. B.* Same Practice in *B. R.*

Where Plt. concludes *ad Patriam* upon Deft's Plea, and gives Notice of Trial upon the Paper-Book, and thereupon Deft. to hinder the Trial of the Issue, demurs upon Repl. and Plt. joins in Demurrer, and gets Judgment, Deft's Attorney shall accept Notice of Inquiry, from the Time of giving such Notice of Trial. H. 8 G. 1.

Where Plt. concludes *ad Patriam*, and gives Notice of Trial on the Back of his Pleading, if Deft. does not join Issue before the Rule be out, in such Case after Judgment Deft's Attorney shall accept Notice of Inquiry from the Time of giving said Notice of Trial. H. 6 G. 1. And where Deft. demurs to Pltff's Declaration, Deft's Attorney shall accept Notice of Inquiry on the Back

of the Joinder in Demurrer. And where Deft. pleads such a dilatory Plea, that Plt. is obliged to demur to, Deft's Attorney shall accept Notice of Inquiry on the Back of the Demurrer. T. 10 Geo. 1.

II. *Making it out and executing it, &c.*

To be written on treble 6 *d.* stamp Parchment. In *B. R.* not to be signed. In *C. B.* to be signed by the Prothonotary; pay him according to the Length. Sealing 7 *d.* You may sue out *Subp. at Test.* as in Cases of Trial. Indorse the Place where you have given Notice for the Execution; carry the Writ of Inquiry to the Sheriff 2 Days before you execute it; and he will cause a Jury to be returned. In *London* you pay him 1 *l.* 7 *s.* 4 *d.* and for every Witness 4 *d.* In *Middlesex*, and most Counties, you pay 1 *l.* 10 *s.* 6 *d.* The Inquisition must be stampd with a double 2 *s.* 6 *d.* Stamp. In *B. R.* a Rule must be given for Judgment, but not in *C. B.* 4 Days after the Return of the Inquiry being expired, sign final Judgment, as upon a *Possea.*

K. B. **Proceedings against Prisoners.** C. P.I. *Declaration.*

To be delivered before the End of the next Term, after the Return of the Process or Surrender in Discharge of Bail, to the Keeper, Gaoler or Turnkey, and at the same Time ask him if Defendant is not his Prisoner, who must deliver it to the Prisoner, or you may deliver it to the Prisoner himself.

II. *Charging Defendant in Custody.*1. *In the King's Bench Prison.*

Affidt. that Cause of Action amounts to 10 *l.* must be filed in *B. R.* with the Cl. of the Rules; in *C. B.* with the Prothon. who takes 2 *s.* a Count, for the Entry of the Decl. and the Sum is indorsed by him on the Decl. before it is left with the Turnkey in *B. R.* or with the Cl. of the Papers of the *Fleet* in *C. B.*

2. *In Newgate, Ludgate, or other County Gaol.*

There must be a Process to charge Defendant in Custody, directed to the Sheriff.

K. B.

How to declare.

C. P.

If Deft. in Custody of the Sheriff, make 3 Copies of your Decl. on Stamps, one on double 1 *d.* stamp Parchment to file; another on double 1 *d.* Paper to deliver, and the third on double 1 *d.* Paper to annex to an Affidavit of such Deliv. to be filed with the Cl. of the Rules; for no Rule to appear and plead may be given till such Affidvt. is filed, and which must be filed before 20 Days after the End of the second Term after Return of the Process.

But if Deft. is in Custody of the Marshal of *K. B.* Prison, make only two Copies of your Decl. one on stamp Parchment to file, and another on stamp Paper to deliver to the Turnkey or Prisoner, for here no Affidavit of the Delivery is required, But a Rule to plead may be given of course; and if Decl. delivered 4 Days excl. before the End of the Term, and Rule given (and Plea demanded, which may be made on the Back) Deft. must plead as of that Term.

If Deft. in Custody of the Sheriff, make two Copies of your Decl. on double 1 *d.* stamp Paper, one to deliver to Turnkey or Prisoner, and the other to annex to an Affidavit of the Delivery, to be filed with the Secondary of the Proth. Office, and which must be filed before the End of 20 Days after the second Term, except after *East* Term, and then in 10 Days, for no Rule, &c. till such Affidavit is filed.

If Deft. is in the *Fleet*, you make likewise two Copies of your Decl. as above, carry both to the Proth. who will enter them, and mark them as entered. *N. B.* If Deft. was arrested at your Suit, the Sum sworn to is not indorsed thereon, because it appears in the Return to the *Hab. Corpus*; but if you charge the Deft. with a new Action, you file the Affidavit of Debt with the Prothon. who then marks them entered, and likewise indorses the Sum sworn to thereon. Your Decl.

Decl. being entered, deliver one Copy to the Turnkey of the *Fleet*, who will enter the Action (pay 1 s.) the other you keep to annex to an Affidavit of such Delivery, which must be filed as above.

K. B.

Upon filing your Affidt. of delivering Decl. with Cl. of the Rules, he will give a Rule to plead; and if you have a Copy thereof on Stamps, he will likewise mark the Rule to plead on that, which may be necessary to produce on signing Judgment if no Appearance and Plea, else you may have an Office Co. when you sign your Judgment. If no Appearance and Plea, sign Judgment.

C. P.

Upon filing your Affidt. of the Delivery with the Secondary, he gives a Rule to plead, (which against a Prisoner in the *Fleet* is always out in 8 Days) and if no Appearance and Plea, the Proth. will sign your Judgment without your having a Copy of the Affidavit of the Delivery (as in *K. B.*) or producing a Certificate of Appearance not entered.

III. *When to appear and plead.*

1. *If Copy of Decl. be delivered before 3d Return of East. and Mich. Term.*

By Reg. East. 5 W. & M. upon Mesne Process Ret. 1st Day of E. or M. Term.

By Reg. E. 5 W. & M. (no Mention made of the Ret. of the Proc. as in B. R.)

Affidavit of the Delivery thereof being filed, if Defendant does not appear in 10 Days after East. or Mich. Terms respectively, Judgment may be signed, Rule having been given; but if he appears, he shall imparl till the next Term; unless the Action be in Lond. or Mid. and Deft. be in Prison within 40 Miles of Lond. or Westm. and then he shall plead 2 Days before the Effoin-Day of the next Term.

2. *If delivered on or after the 3d Ret. of East. or Mich. or any Time in Hil. or Trin.*

And Deft. appears 2 Days before the Effoin-Day of next Term, he shall imparl to said next Term; but if he does not appear in that Time, Judg. may be signed.

3. *If Process be returnable one Term, and Decl. del. before the Effoin-Day of next.*

Plt. in such next Term may give Rules to appear and plead; and if Deft. does not appear and plead by the Expiration of the Rules, Judgment to be entered.

IV. *Issue, Trial, Judgment, and Execution.*

Plaintiff must deliver Issue, and proceed to Trial or Judgment within 3 Terms after Decl. delivered, or after Render, if Decl. was delivered before; and to Execution 2 Terms after Judgment, or Defendant may be discharged.

V. *How to charge a Prisoner in Execution.*

In the King's Bench Prison.

Get a Rule from Mr. Cowper, (4 s.) serve the Marshal with Copy, under which he will write his Acknowledgment of Deft's being in his Custody, (10 s. 6 d.) Enter the *Committitur* in the Marshal's Book at Mr. Lantrow's Office, (2 s.) file it with Mr. Heberden, (2 s.)

In the Fleet.

Make out a *Ha. Cor. ad Satisfaciend.* St. 5 s. $\frac{1}{2}$, signed by Prothon. 1 s. 4 d. Sealing 7 d. Backing by a Judge 4 s. Carry it to Clerk of Papers at the *Fleet* 4 Days before the Ret. (9 s. 2 d.) pay to the Treasury-Keeper on bringing the Roll into Court 2 s. on which the final Judgment must be entered; therefore

give the Clerk of the Judgment 2 or 3 Days Notice before-hand. Bringing up Defendant 10 s. 6 d. To the Cryer 2 s. To the Secondary 9 s.

VI. *How to discharge Prisoners for want of Plaintiff's Proceeding.*

1. *For want of Decl.]* If in a County Gaol, get a Certificate from the Gaoler of the Causes he is charged with, and a Certificate from the Cl. Decl. in B. R. or the 3. Prothon. in C. B. and thereupon in B. R. make out a common Bail-Piece with a *Fiat* for a Judge to sign, which you file with Mr. Heberden on his signing your

your *Superfedeas*; but in *C. B.* get the Judge's *Fiat*, which you file with the Filazer, and he on your entering an Appearance signs your *Superfedeas*; or you may proceed by taking out a Judge's Summons for Plaintiff, to shew Cause why the Defendant should not be discharged for want of a Declaration, which is the best Method when the Defendant is in a County Gaol; but if Defendant is in *Custod. Mar.* get a Certificate from the Clerk of the Papers of *B. R.* Prison, and from the Clerk of the Declaration, and thereupon a Judge will order Common Bail to be filed, and upon a Certificate thereof, the Marshal will discharge Deft. without a *Superfedeas*.

2. For not proceeding to Judgment or Execution.] Summon Plaintiff to shew Cause why a *Superfedeas* should not be granted, which (if no Cause shewn to the contrary) he will grant on filing Common Bail, or entering appearance. But if Defendant is in *Custod. Mar.* then on Summons*, and no Cause shewn to the contrary, the Judge will order Defendant to be discharged on filing Common Bail, without any Writ of *Superfedeas*.

In the *C. P.* after Decl. the Proth. signs the *Superfedeas*, and not the Filazer.

Proceedings by Attornies.

If an Attorney sues for Fees, the first Process is an Attachment of Priv.

K. B.

Get a treble 6*d.* Stamp, and make out the Writ; if notailable, add an *English* Notice as for a *Lat.* and serve Deft. with Copy. If by Oath for 10*l.* or above, insert an *Ac etiam* as for a *Lat.* make a *Præcipe*, sign it with Mr. Heberden, pay nothing, sealing 7*d.*

Back. No *Ac etiam*. Sign it with Cl. of the Warrants of Attornies, pay nothing, unless in Arrear for Termages. Make out a *Precipe*, and sign with Proth. pay nothing, sealing it 1*d.* only.

If Deft. appears, he files his Bail with Mr. Heberden.

K. B.

Ingross Decl. on double 1*d.* Stamp Paper, according to Form, viz.
Midd. ff. } *A. B.* Gent. one of the Attornies of the Court of our Lord the King, before the King himself being, according to the Liberties and Privileges of the same Court used and approved of in the same from Time whereof the Memory of Man is not to the contrary, present here in Court in his proper Person, complains of *C. D.* being in the Custody, &c.—The rest as common, adding Pledges.

claims that whereas—The rest as in common Cases, only you must add Pledges as in *K. B.*

If an Attorney delivers or files his Decl. and gives Notice thereof 4 Days exclusive before the End of the Term in which Process ret. Deft. must plead the same Term. If Rule to plead given, and Plea demanded, in both Courts.

* And on the first Summons too,

C. P.

Get a treble 6*d.* Stamp, and make out the Writ, or a printed Form from the Stat. which fill up. If notailable, add an *English* Notice as for a *Capias*. If by Oath for 10*l.* or above, instead of saying in the Writ "Of a Plea of Trespass," say, "Of a Plea of Trespass on the Case," and indorse the Sum on the

If Deft. appears, he enters his Appearance (3*s.* 4*d.*) or files Bail with the Proth.

Declaring by Attorney.

C. P.

Midd. ff. } *C. D.* late of, &c. was attached by a Writ of Privilege issuing out of this Hon. Court, to answer *A. B.* Gent. one of the Attornies of the Court of our Lord the King of the Bench, according to the Liberties and Privileges of the same Bench, used and approved of in the same from Time whereof the Memory of Man is not to the contrary, of a Plea of Trespass on the Case, &c. (as 'tis) and whereupon the said *A. B.* in his proper Person com-

Proceedings against Attornies.

Attornies are not to be served with Copies, nor arrested, being supposed to be always present in Court, but the Manner of Proceeding is by filing a Bill against 'em.

K. B.

Having drawn the Bill, ingross two Copies, one on double 1 d. stampt Parchment, and the other on double 1 d. Paper, file that on Parchment with Cl. Decls. (4 d.) then deliver the other to the Deft. with Notice thereon to plead. Give Rule to plead, and demand Plea as in common Cases. Observe the Bill differs not from a Decl. against another Person in this Court, only in setting forth Deft's Addition.

C. P.

Having drawn the Bill, ingross it on double 1 d. stampt Parchment, carry it to *Westm.* give it to one of the Cryers to call Deft. (1 s.) he'll get it signed by Proth. who will take for the Entering. Take it back, and annex a double 6 d. Bit of Parchment to the Bottom; take it to the Secondary, who will give a Rule thereon for Deft. to appear; file it with Proth. and give Notice to Deft. to appear in 4 or 8 Days, as by the Rule. *Hill. 11 Geo. 2.*

K. B.

The Bill.

C. P.

Trin. Term in the ———

Midd. ss. } *C. D.* complains of *A. B.*
 } Gent. one of the Attornies of the Court of our Lord the King, before the King himself in his proper Person present here in Court, for that to wit, That whereas, &c.—So on, adding Pledges.

saying, "And therefore he brings his Suit," you say, "And therefore he prays "Relief;" adding Pledges.

If Deft. appears and pleads, you make up the Issue with a Memorandum as in other Cases, but if he don't appear and plead according to Notice, you don't forejudge him as you do in the *C. P.* and thereupon bring a new Action as against an unprivileged Person; but you sign Judgment by Default, and execute a Writ of Inquiry, and proceed to final Judgment and Execution, if in Case, and if in Debt, to Execution immediately. If a Bill is filed, and Notice thereof 4 Days exclusive before the End of the Term, Deft. is to plead that Term.

To the Justices of our Lord the King of the Bench *Midd. ss. C. D. &c.*—So on with the Bill to the End, adding Pledges. You charge on the Back of the Decl. and give Notice to plead as in other Cases, *viz.* If Action in *Lond.* or *Middlx.* and Deft. lives within 20 Miles, 4 Days Notice; if above, 8 Days Notice to plead. And if he pleads, you make up the Issue, as in other Cases. But where the Deft. don't appear upon Notice of Bill being filed, you sign a Forejudger.

Forejudger.

Trin. Term in the ———

To the Justices of our Lord the King of the Bench.

Midd. ss. } *C. D.* by *E. F.* his Attorney,
 } complains of *A. B.* Gent. one of the Attornies of the Court of our Lord the King of the Bench present here in Court in his proper Person, For that whereas——So on, but instead of

If Deft. appears, he enters his Appearance with the Proth. and then you deliver him a Decl. beginning with a Memorandum, thus;

Cooke. Trin. Term in the, &c.

Midd. ss. } Be it remembered that on the
 } 30th Day of *May* in this same Term *C. D.* came here into Court by *E. F.* his Attorney, and exhibited to the Justices of our Lord the King here his certain Bill against *A. B.* Gent. one of the Attornies of the Court of our Lord the King of the Bench present here in Court in his proper Person, the Tenor of which said Bill follows in these Words:

Forejudger.

You ingross the Bill with the Memorandum as before on a Proth.'s Roll, and continue the Forejudger thus: "Whereupon the said *A. B.* being solemnly called "came not, therefore he stands forejudged from exercising his Office of Attorney "of this Court for his Contumacy, &c." Likewise ingross the same, or an *Incipitur* thereof on a Sheet of double 2 s. 6 d. stamp Paper; take both to the Proth. to sign, (2 s.) then to the Cl. of the Warrants, to strike Deft. off the Roll, (1 s. 4 d.) who will sign your Paper, and keep the Roll for his Justification for so doing; and then you may proceed against him as a common Person.

Ejectionment.

Get a Blank Decl. in Ejectionment unstamped to keep for Use, fill it up, and likewise as many on double 1 d. Stamps as there are Tenants of the Tenements you sue for, agreeable to your Copy, in order that you may make an Affidavit of the Service of them.

If the Tenements lie in *Lond.* or *Mid.* make the Notice to appear the 1st Day of the next Term, for if made generally, Deft. will have the whole Term to appear in; but if the Tenements lie in any other County, make the Notice to appear the next Term generally.

Serve each Decl. on the Tenant or his Wife before the Effoin-Day of the Term, and on Service read the Notice to the Tenant, or fully explain the Nature thereof.

N. B. Service on Tenant's Son or Daughter is not good, unless the Receipt thereof is acknowledged by Tenant, and Affidavit is made thereof. Make Affidavit of the Service on double 6 d. and make a Copy of the Decl. on double 1 d. to annex thereto, to move for Judgment against the casual Ejector.

*K. B.**To move for Judgment.**C. P.*

Give it to Counsel to move for Judgment, and *N. Cl.* of the Rules keeps the Affidavit and Declaration on the Motion; so you should have a Decl. filled up by you before Motion, else you must pay 1 s. for taking a Copy.

If Tenemts. in *Lond.* or *Mid.* and Notice to appear 1st Day or Beginning of the Term, move the Beginning of the Term, and then Tenant has but 4 Days inclusive to appear in after Motion; but if moved late in the Term, 2 or 3 Days or immediately; but if not moved before the last 4 Days, Tenant has until 2 Days before the Effoin-Day of the next subsequent Term. If Not. to appear generally, has the whole Term to appear.

If Tenements lie in any other County than *Lond.* or *Mid.* tho' Declaration delivered before the Effoin-Day of *East.* or *Mich.* Term, yet Tenant has 4 Days after the End of the next issuable Term, *Hil.* or *Trin.* to appear; and if in a County where Affizes but once a Year, yet Tenant has 4 Days after the End of the Term next preceding the Affizes to appear in both Courts. *Ex. gr.* Term ended *Wednes-*
day, has all *Monday* next, &c.

Give it to a Serjeant to move for Judgment, and *N. Secondary* keeps the Affidavit and Declaration on the Motion; so, &c.

If Tenemts. in *Lond.* or *Mid.* and Not. to appear 1st Day or Beginning of Term, move the Beginning of Term, for Pltff. to take nothing by his Motion for Judgment against Casual Ejector for Default of Appearance, unless Motion within a Week after the 1st Day of every *Mich.* and *East.* Term, and within 4 Days of every *Hil.* and *Trin.* Term. *Reg. Tr.* 32 Car. 2. This Rule does not extend to vacant Possessions. *Pract. Com. Pleas* 303.

K. B.

K. B.

Must move for Judgment same Term
Tenant had Notice to appear.

C. P.

In Country Ejectmts. tho' Decl. before
East. or *Mich.* Plt. has all the next issuable Term to move for Judgment.

In Country Ejectments you may move any Time within the Term, tho' it is generally deferred till the latter End of the Term. And *N. B.* You must move for Judgment against Casual Ejector if you would compel an Appearance or have Judgment, tho' if Pltff's and Deft's Attorney know each other, they often agree to save the Expence of the Motion on dividing the Half Guinea between them; but in this Case Pltff's Attorney should be cautious of depending on a verbal Promise to appear only, lest by Neglect of the Motion he should be deceived.

A general Rule to answer to be given
with Cl. of the Rules before Motion
for Judgment. *Reg. Tr. 10 Car. 2.*

On Motion for Judgment must give
Rule to plead.

Not necessary in either Court unless Tenant in Possession appears.

K. B.

How to appear.

C. P.

Buy a Blank Rule of Assent of the
Stat. (not stamp) file Com. Bail, (usu-
ally omitted now) fill it up to make
the Tenant or whoever appears Deft.
instead of the nominal Deft. mentioned
in the Decl. Write in the Margin of the
Rule the Premises mentioned in the Decl.
and sign the Rule with Deft's Attorney
or Agent's Name at the Bottom, leaving
Room for Pltff's Attorney to sign his
Name over it; ingross the General Issue
Not guilty with the new Deft's Name,
and annex it to the Back of the Rule,
and so leave them at one of the Judge's
Chambers, ()

If by Orig. you strike out the Words
in the Rule (and file Com. Bail) and in-
stead of (his Bill) insert (his Writ) in the
Rule; and instead of filing Com. Bail,
you must enter an Appearance with the
Filazer of the County in this Court.

Where Deft. enters into the Common Rule to confess Lease, Entry and Ouster
for so much of the Tenements as are in his Possession, the Attorney for Deft.
must forthwith give Notice to Pltff's Attorney in Writing of the Tenements so
in his Possession. *Trin. 15 Car. 2.*

If the Person who claims Title to the Premises, and would defend the Action,
is not in Possession thereof, you must move the Court for him to be made Deft.
instead of the nominal Deft. but this with Consent of the Tenant in Possession,
unless 'tis his Landlord.

Get a Rule of Assent from the Sec-
ondary of the Proth. whose Office Decl. is
in, (6d.) fill it up to make the Tenant or
Person who appears Deft. instead of the
nominal Deft. mentioned in the Decl.
Write in the Margin of the Rule the
Premises mentioned in the Decl. ingross
the General Issue Not guilty, enter Ap-
pearance with the Filazer of the County,
(2s.) who will stamp the Rule, and
write Appearance entered. And having
signed the Rule, annex the Plea to it,
and leave them at the Proth.

Deft's Attorney often neglects enter-
ing Appearance, and only leaves the
Plea and Rule, or delivers them to Pltff's
Attorney, and then Pltff's Attorney does
it, and charges for it on the Issue; but
this is wrong; Deft's Attorney should
take Care to enter an Appearance.

To draw up Rule by Consent to confess Lease, Entry and Ouster, Issue, &c.

K. B.

Take the Rule and Plea from the Judges Chamber, who will have signed the Rule, sign Pltff's Attorney's or Agent's Name over Deft's, take Rule from Plea and carry it to Cl. of Rules, who will keep that Rule, and there from draw up one other Rule by Consent, () Draw your Issue with a Memorandum as in other Cases; annex this Rule to the Copy of Issue, and deliver it therewith to Deft's Attorney; you charge nothing for the Half Rule in K. B.

C. P.

Take the Rule and Plea from Proth. if not delivered you, and if no Appearance entered thereon, enter Appearance with the Filazer, and a *Li. lo.* with Proth. and charge on the Issue, *viz.* App. 5 s. 4 d. *Li. lo.* 2 s. then carry the Rule to the Secondary, who will keep that, and therefrom draw up two other Rules by Consent, 4 s. each; draw your Issue, and annex one of the Rules to Copy Issue, and deliver it therewith to Deft's Attorney, and keep the other. You charge for the Half Rule in this Court on the Issue ()

K. B. To sign Judgment against the casual Ejector for want of Plea. C. P.

First search all the Judges Books for Plea and Rule; if none filed, make an *Incipitur* of the Decl. on a double 2 s. 6 d. Stamp and on a Roll, and on producing your Rule for Judgment, Cl. of Dockets will sign your Judgment, (3 s. 6 d.) make out a Writ of Possession, sign it with Mr. Heberden, (1 s. 8 d.) Seal it, (7 d.)

First search the Proth.'s Plea-Book for Plea and Rule; if none filed, make an *Incipitur* of the Decl. on a double 2 s. 6 d. Stamp and on a Roll of that Term; make out a Warrant of Attorney, sign it at Warrant of Attorney Office, then at Proth. (12 s. 8 d.) make out Writ of Possession, sign it at Proth. (1 s. 4 d.) No Prac. Seal it, (7 d.)

Proceeding to an Outlawry.

Proceeding to an Outlawry is necessary when a Deft. has an Estate in Lands or Goods, and cannot be arrested, wherein it serves to compel an Appearance, &c.

A Man cannot be outlawed on Process with *Ac etiam*, and if the Original be only a *Clausum fregit*, the Deft. may reverse the Outlawry without Bail; therefore the usual Method is to make out a Præcipe for a Special Original, thus: (In case) &c.

K. B.

London, ff. } If A. B. gives you Security
to prosecute his Suit, then
put by Sureties and safe Pledges C. D.
late of — in the said County, That,
&c. to shew wherefore that whereas the
said C. D. (setting forth the Cause of
Action as by a Decl.) but instead of say-
ing "To the Damage of the said A.
" 20 l. and therefore he brings his Suit,"
say, "To the Damage of the said A.
" 20 l. as he says."

Ret. in K. B. in 8 Days of St. Hilary,
wherefoever, &c.

The only Difference you observe, is by making the Original returnable in the Court designed.

Carry the Præcipe to the Cursitor of the County, who will make out the Original in Debt 2 s. 6 d. in Case 2 s. 6 d. the first Count, and 6 d. every other Count, besides the Fine due to the King.

C. P.

London, ff. } If A. B. gives you Security
to prosecute his Suit, then
put by Sureties and safe Pledges C. D.
late of — in the said County, That,
&c. to shew wherefore that whereas
the said C. (setting forth the Cause of
Action as by a Decl.) but instead, &c.
say, "To the Damage of the said A.
" 20 l. as he says."

Ret. in 8 Days of St. Hilary.

If you carry the *Præcipe* before the *Effoin* Day of a Term, he will make the Original returnable on any return of the preceding Term, by which you save Time; when you have it you may return it yourself by *Nil habet*, &c. then carry it to the proper Filazer of the County, who thereupon will issue out a *Capias*, *Alias* and *Pluries*; or if at first you carry the *Præcipe* to the Filazer he will procure the Original, and make out the *Capias*, *Alias* and *Pluries*, and take the Curfitor's Fee and Fine, and also for himself 2s. 6d. the first Count, and 6d. every other Count.

These Writs you may return of course, *Non est inventus*, &c. seal them, and file a Warrant of Attorney on the *Pluries*, (4d.) which Writ the Clerk of the Warrants stamps; carry the *Pluries* to the Exigenter's Office of the County wherein the Action is laid, who thereupon will make out a Writ of Exigent and Writ of Proclamation of one and the same Return, and will keep the *Pluries* (the *Capias* and *Alias* you may keep yourself); seal the Exigent and Proclamation, then carry the Exigent and leave it at one of the Compters (if in *London*) to be returned (1s.) and the Proclamation to the County Clerk (1s.) (or to the Sheriff of the County where the Deft. dwells) for the Deft. to be proclaimed; tho' the Hustings in *London* are once a Fortnight, yet it often happens, that there are not five Hustings between the Teste and Return of the Exigent, and so if you find not five Hustings returned on it when you fetch it from the Compter, you must carry the Exigent to the same Exigenter's Office for him to make out an *Allocatur*, in order to bring in the five Hustings; seal the *Allocatur*, and then carry and leave it at the same Compter to be returned; and thus when the Exigent is returned with five Hustings, and the Proclamation with three Proclamations indorsed to be made thereon, is the Deft. outlawed.

The Proclamation you afterwards file with the *Custos Brevium*, and for further Process against the Deft. carry the Exigent to the Clerk of the Outlawries, who thereupon will make you out a General Writ of *Capias Utlagatum* against the Deft's Body; or a special Writ of *Capias Utlagatum* against his Body, Goods and Lands, on which you may proceed to take his Body, or make Inquisition of his Goods or Lands.

By reason the Hustings in *London* are every Fortnight, and County Court Days but once a Month, 'tis most usual to outlaw the Deft. in *London*; but if you lay the Action in any other County, then, instead of leaving the Exigent at one of the Compters to be returned, you must send it to the Sheriff of the County wherein the Action is laid, and likewise the Proclamation to the same Sheriff, or the County Clerk, if the Defendant lives in that County; if not, send the Proclamation to the Sheriff or County Clerk of the County wherein the Deft. dwells, for the Exigenter, in making out the Writ, will direct it accordingly.

Of appearing to and superseding the Outlawry.

If the Deft. has Notice of an Exigent against him, find out what Sheriff 'tis directed to, (as you may by searching at the Exigenter's Office) get a Copy or a Note of it, as the Pltff's and Deft's Names and Additions, the Cause of Action and Return thereof, in order to make out a Writ of *Superfedeas* by; having made out the *Superfedeas quia improvide*, carry it to the Filazer of the County, who, upon your entering an Appearance for the Deft. will sign the Writ; then seal it, and send it to the Sheriff of the County the Exigent is directed to; to be allowed, before the Return of the Exigent.

If the Deft. appears by *Superfedeas quia improvide*, or duly renders himself upon the Exigent, no bail is required. *Mich. 1654.*

But if the Deft. be arrested on the *Capias Utlagatum*, and the Debt or Damages expressed in the Original amounts to 10l. or upwards, the Deft. must give Bail.

Hil. 15 & 16 C. 2. Trin. 2 J. 2. Nor can he render himself in Discharge of his Bail, but he or they must pay the Money.

If the Action requires only a common Appearance, you enter it with the Filazer (2s.) if special Bail give the Filazer a Note of the Bail, and he will attend the Judge on your putting in Bail, of which give Notice to Pltff's Attorney. As to excepting, adding, and justifying Bail, &c. 'tis as in other Cases.

Upon Deft's appearing and reversing the Outlawry, he pays the Costs to the Exigent; further Costs are respited till Judgment. *Trin. 2 J. 2.*

On Deft's reversing the Outlawry, the Plt. must declare in two Terms after Notice of such Reversal. *Trin. 33 C. 2.*

K. B.

The Practice in Prohibition.

C. P.

Prepare the Suggestion, enter it on the Roll, leave a Copy on double 1d. stamp Paper, with Clerk of the Papers, (considering whether to be left with Mr. Benton or Mr. New, for if the Pltff's Name in this Court begins with A, C, &c. being every other Letter of the Alphabet, it must be left with Mr. Benton, if with B, D, &c. then with

The same Method is to be observed here, except that instead of leaving the Pleadings with the Cl. of the Papers, you do it yourself; and that the Rule obtained on the Motion is to be drawn up with the Secondary of that Prothonotary, in whose Office you are entered an Attorney.

Mr. New.) Get Copy of the Proceedings below, and an Affidavit of their being true Copies, and that the Plt. here has appeared below, draw and copy Brief of the Suggestion and Affidavit, and Fee your Counsel to move, draw up Rule with Clerk of the Rules Copy and serve it.

K. B.

How to sue out an Habeas Corpus.

C. P.

Get the Copy of the Process on which Deft. stands committed, then a 5s. stamp Piece of Parchment of the Stat. ingross *Habeas Corpus* thereon, make Note for Office, (no *Fiat* necessary) carry it to Mr. Heberden, pay him in Term Time, 6s. 8d. in Vacation 7s. 8d. seal it, 7d. make it returnable immediately, if sued out in Term Time; if in Vacation, it ought not legally to be returnable

Get Copy of Process on which Deft. stands committed, and then a 5s. stamp Piece of Parchment of the Stat. ingross *Habeas Corpus* thereon, make Note for Office (no *Fiat* necessary) carry it to Prothonotary's Office in which you Practice, then seal it; what follows in K. B. is equally applicable to the Practice of this Court.

before the first Day of the then next Term, that being the first Day in Court, after suing out the Writ; but there is hardly an Instance in Practice, of the Sheriff's refusing to return it immediately, that is, in convenient Time, according to the Distance; direct it to the Sheriff of the County, in whose Gaol the Deft. is committed, tho' the Writ generally commands the Sheriff to bring the Deft. before the Chief Justice, yet any other Judge will turn him over; if he is desirous of being turned over to the Fleet, but is charged with no Action out of that Court, he cannot be turned over to that Prison, therefore you must get him charged with some amicable Action, before you bring your *Hab. Cor.* leave it when signed and sealed at Sheriff's Office, or send it by a Friend to the Gaoler of the Prison where Deft. lies, and he will bring him up upon being paid (or at least tender him, to prevent any Excuse for not obeying the Writ) 1s. every Mile he is to bring the Deft.

Of Passing Fines, &c.

Of Suing out and Passing a Fine at Bar.

DRAW a Præcipe on Paper for the Curfitor of the County to make out a Writ of Covenant, for which you pay 7 s. 6 d. and having received it from him, ingross a Præcipe and Concord thereof on Parchment, and go down with the Cognifors to the *Common Pleas* Bar at *Westminster*, and give the Præcipe, Concord and Covenant to one of the Serjeants, who after calling King Silver, will deliver over the Covenant to the Secondary; and if any of the Cognifors be a Feme Covert, take the Præcipe and Concord back from the Serjeants, and go with your Client to the puisne Judge of the Bench, sitting furthest from the Right Hand of the Chief, and deliver the Præcipe and Concord to him, and he will examine her. Pay the Fees of Court, which are about 5 s. 6 d. annex the Præcipe and Concord to the Covenant, and pass it thro' the several Offices as hereafter directed.

Before the Chief Justice of the Common Pleas.

Draw a Præcipe and Concord on Paper, with the Caption under it, and another in like Manner on Parchment, to both which the Cognifors must subscribe their Names. Go with the Cognifors to the Chief Justice's Chambers in *Serjeants-Inn*, or to his House, and let them acknowledge it before him, for which you pay 12 s. and generally 1 s. to the Servant, leaving the Paper Præcipe with the Chief Justice's Clerk, and taking the Parchment one away, subscribed by the Chief Justice; then carry it to the Curfitor of the County where the Lands lie, and also a Copy of the Præcipe and Caption on Paper for him to keep, and he will make out a Writ of Covenant thereon to be passed as hereafter directed, or you may get a Writ of Covenant made out first.

Before a Judge of Assize on the Circuit.

Draw a Præcipe and Concord on Paper and Parchment as last above, and go with the Cognifors before the Judge, where you pay 13 s. Take one of the Præcipes and Concords acknowledged back with you, and when the Judge comes to Town carry it to the Curfitor, and bespeak a *Dedimus* directed to that Judge who took the Acknowledgment, and his Clerk will return the Substance of the Concord on the Back of the *Dedimus* for which you pay 1 s. 6 d. Then get a Writ of Covenant, and pass it as in other Cases.

Before Commissioners appointed by Dedimus.

Draw a Præcipe on Paper with Commissioners Names, the first of which must be a Knight or Serjeant at Law; carry it to the Curfitor, who will make out a *Dedimus* thereon, for which you pay 1 l. 5 s. 8 d.

Send down the *Dedimus* to your Client with this Indorsement—The Execution of this Writ appears in a certain Schedule hereto annexed.

Your Client will ingross a Præcipe and Concord on Parchment in the Country, which when he has returned to you acknowledged by all the Cognifors before two or more Commissioners, who have subscribed their Names to the Caption, and indorsed the same also on the Back of the *Dedimus*, together with an Affid. of the due Acknowledgment thereof, pursuant to the Rule of Court of *Hil.* the 17th of G. 2. the Form whereof is as follows, viz.

*The Form of an Affidavit of the due Caption of a Fine.**In the Common Pleas.*

A. B. of ——— in the County of ——— one of the Attornies of his Majesty's Court of ——— and one of the Commissioners named in the Writ of *Dedimus Potestatem*, for taking the Acknowledgment of the Fine hereunto annexed, maketh Oath and faith, That he knows *C. D.* and *E.* his Wife, and *F. G.* and *H.* his Wife, the Conusors named in the said Fine, and that the same was duly signed and acknowledged by them before this Deponent and *J. K.* Gentleman, the other Commissioner named in the said Writ; and that the said *C. D.* and *E.* his Wife, and *F. G.* and *H.* his Wife, and also this Deponent and the said *J. K.* were at the Time of taking and acknowledging the said Fine all of full Age and competent Understanding. That the said *E.* and *H.* were solely and separately examined apart from their Husbands, and freely and voluntarily consented to and acknowledged the said Fine, and that the said Conusors and every of them knew the same to be a Fine to pass his, her or their Estate and Estates. And this Deponent further faith, That the said Fine was duly signed and acknowledged on the Day and Year mentioned in the Caption thereof, or on the several Days and Year (or Years) respectively mentioned in the several Captions thereof, and that the Razure (or Razures, if any) Interlineation (or Interlineations) appearing to be made in the Body (or Caption) of the said Fine, was (or were) made before any of the said Parties signed the same, and before the said Commissioners signed the said Caption (or Captions.) *Trin. 26 & 27 G. 2.*

A. B.

Sworn at ——— in the County of ———
 the ——— Day of ——— in the Year of
 our Lord ——— before me

*L. M. one of, (&c.)*If sworn in Court *1 s. 6 d.* at Judge's Chambers in Term *1 s.* Vac. *2 s.**N. B.* This Affidavit must be made on Parchment.*Or thus, if the Affidavit is not made by a Commissioner.**In the Common Pleas.*

A. B. of ——— in the County of ——— one of the Attornies of the Court of ——— maketh Oath and faith, That he knows *C. D.* and *E.* his Wife, and *F. G.* and *H.* his Wife, the Conusors named in the Fine hereunto annexed, and that the said Fine was duly signed and acknowledged by them in this Deponent's Presence, and that they the said *C. D.* and *E.* his Wife, and *F. G.* and *H.* his Wife, and also *J. K.* and *L. M.* Gentlemen, the Commissioners taking the same Fine, were at the Time of taking thereof all of full Age, &c. as in the former.

If there be only one Conusor and his Wife, say, ——— and each of them ———

N. B. The *Dedimus* stands in Force but a Year, and if there be any material Mistake in the *Dedimus*, it must be either altered or renewed; and if the Alteration be in lessening the Parcels or Parties, it will cost only *9 s.* but if increased, you must pay *1 l. 5 s. 8 d.* for a new *Dedimus*; but if any small Mistake in the Agent's Instructions, or by the Cursitor in ingrossing it, the Cursitor being satisfied therewith will rectify it for nothing.

You must take the *Dedimus* and Caption down to a Judge of the *Common Pleas* at his Chambers for his *Allocatur* thereon, for which you pay *4 s.*

But if the Parties live in Town, you must make out a *Præcipe* and Concord on Parchment yourself, and annexing the same to the *Dedimus*, go with two of the Commissioners (if you are not one) to the Conusors, and take their Acknowledgments, in which Case it will be necessary that you know the Conusors, that they be

be examined whether they are of Age, and whether they know it to be a Fine to pass their Estates; and if a Feme Covert be one of the Conusors, that she be solely and separately examined apart from her Husband, that she be of Age, that she freely and voluntarily consent, and that she knows it to be a Fine to pass her Estate. Subscribe the Caption, indorse the *Dedimus*, make Affidavit of the Acknowledgment thereof, and get Judge's *Allocatur*, as before set forth.

This done, carry the same to the Curfitor of the County, who will make out a Writ of Covenant, for which you pay 7s. 6d. and pass the same thro' the several Offices in the Manner following:

Of compounding a Writ of Covenant.

Having got the *Writ of Covenant* from the Curfitor, carry it to the *Alienation-Office* in the Temple to be compounded by the Commissioners, who attend from 10 to 12 in the Morning. The Rule for setting the Fine is for a Manor 20s. for an Advowson 20s. But as the Curfitor will not divide Things that are intire, tho' the 4th or 8th Part only of an Advowson is intended to pass, the Commissioners will moderate the Fine on making that appear to them. About 10s. for every Hundred Acres, and 6s. 8d. for every Messuage without Land, except in London, where the general Rule is to pay 1l. for every Messuage, unless the Rack Rent is sworn to before the Commissioners; therefore if you think the Fine is set too high, take your Client to the Commissioners, who will proportion the Fine according to the Rent of the Houses ascertained by his Oath before them; or if he can't attend, by an Affidavit sworn before a Judge of the *Common Pleas*, or before a Commissioner appointed to take Affidavits in that Court in the Country, which may be made thus:

Between *A. B.* _____ Plaintiff,
C. D. _____ Deforcant.

London, ff. } Of ten Messuages, &c. (as in the Writ of Covenant) the abovementioned *A. B.* of the Parish, &c. maketh Oath, That the whole annual Rack Rent of the abovementioned Premises does not exceed the yearly Sum of _____

Sworn, &c.

A. B.

The old Rule for the Payment of Money in the Alienation-Office.

For every 5 Marks and 20s. pays	_____	_____	_____	0	6	8
From 5 Marks and 20s. to 5 Marks and 40s.	_____	_____	_____	0	10	0
Above 5 Marks and 40s. to 10 Marks and 20s.	_____	_____	_____	0	13	4

And so in like Proportion for all others.

Lands rated at 2	0	0	or under, pays	0	0	0	Lands rated at 17	13	4	pays	1	13	4
At above	2	0	to 3l. 6s 8d. pays	0	6	8		18	13	4	1	16	8
At	5	6	8 pays	0	10	0		20	0	0	2	0	0
	7	13	4	0	13	4		22	0	0	2	3	4
	8	13	4	0	16	8		23	6	8	2	6	8
	10	0	0	1	0	0		25	6	8	2	10	0
	12	0	0	1	3	4		27	13	4	2	13	4
	14	6	8	1	6	8		28	13	4	2	16	8
	15	6	8	1	10	0		30	0	0	3	0	0

After it has lain a proper Time in the *Alienation-Office*, get the Curfitor to mark how much the King's Fine is, then carry it to the Return Office, where you pay 1s. 6d. and if the Premises lie in *Lond.* or *Mid.* you must give him a Note where they lie, the Tenants Names, and the Name and Place of Abode of the Person who intends to pay the Post-Fine. Having been in this Office two Days, make a Warrant of Attorney on Parchment in the Form following.

Trinity

Trinity Term, Geo. 2.

London, ff. } A. B. (the Cognisee) put in his Stead J. S. his Attorney, to procure a Writ of Covenant against C. D. Gent. and E. his Wife, of Lands, Tenements and Common, with the Appurtenances, in F. G. H. &c.

Carry this with the Covenant to the Warrant of Attorney's Office in *Clifford's Inn*, where they will file the same, and mark your Covenant, for which the Fee is 4*d.* Next take it to the *Custos Brevium* Office in the *Temple*, where you pay 3*s.* 8*d.* Three Days after carry the *Dedimus* and Caption to the same Office to be proclaimed, and take the Covenant (after examining thereof) from thence; annex them together, and carry them to the King's Silver Office near the *Temple-Garden*, where the Fee is 1*s.* 8*d.* or 2*s.* and for every Caption more than one 6*d.*

Three Days after, take them from the above Office, and carry them to the Chirographer's Office in the *Inner-Temple-Lane*, where you pay 5*s.* 8*d.* in Term, and 6*s.* 2*d.* in Vac. and he will afterwards deliver them over to the Clerk in whose Division the Lands lie.

About a Fortnight after, call at the Seat for that County in the same Office, for the Indentures, for which you pay him according to the Length or Number of Warranties, viz. 3*s.* 6*d.* for the first Warranty, and 6*d.* for every other Warranty, and 6*d.* where the Cognisor and Cognisee are Cross-Names, as *W. A.* and *W. B.* Send the same to your Client, and thus the Fine is completed.

Note; If Expedition is necessary, the Clerks of the several Offices will dispatch your Fine for a small Fee of 6*d.* or 1*s.* extraordinary.

Where two or more are Purchasers.

Lands bought of divers Persons by several Purchasers may pass very well in one Fine, (but if the Parcels are considerable, the Curfitor will expect they shall be divided) and then the Writ of Covenant must be brought by all the Vendees against all the Vendors, and every Vendor must warrant against himself and his Heirs only.

When the Parcels lie in different Counties.

If the Lands lie in several Counties, you may sue out a *Dedimus* from the Curfitor of which of the Counties you please, and make out your *Præcipe* in the following Manner:

Bedfordshire, ff. } Command C. D. that, &c. (mentioning only the Parcels in that County) And unless, &c.

Berkshire, ff. } Command C. D. that, &c. (mentioning the Parcels only in that County) And unless, &c.

You pay for the *Dedimus* 2*l.* 9*s.* 10*d.* the Expence of one Stamp only being saved.

Afterwards ingross on one Piece of Parchment both the *Præcipes* in Manner as above, and one Acknowledgment only underneath, which being signed by the Parties, and the Judge's *Allocatur* obtained thereon, the Curfitor will make out two Writs of Covenant, which you pass as usual, paying thro' all the Offices (except at the Judge's for the *Allocatur*) the same Fees as if they were two distinct Fines.

How to proceed when all the Parties have not acknowledged.

Where all the Parties have not acknowledged, you must, before you can proceed, sue out another *Dedimus*, wherein those Parties who before acknowledged need not be named, which costs 9s. but if the Parcels do not stand as they did, you pay as for a new *Dedimus* 1l. 5s. 8d.

N. B. The former Parties need not acknowledge over again, but the same Caption will serve as to their acknowledging, on the Commissioners indorsing their Names on the Back of the new *Dedimus*.

Caveat.

If you would stop a Fine from passing thro' the Offices, you may enter a *Caveat* at the Judge's Chambers and King's Silver Office, and desire that Notice may be given you thereof.

Search.

If you have Occasion to search for a Fine, the King's Silver is the proper Office; Entries thereof are kept for that Purpose, the Fee is 4d. a Term; and also at the Chirographer's Office there the Fee is 2d. a Term, 8d. per Year.

N. B. A great many Fines upon Mortgages are carried no further than the King's Silver Office, and recorded there only.

To make Indentures Evidence.

If you want to give a Fine in Evidence, get a Copy of the Fine and Proclamations thereon from the Chirographer, and examine it yourself, then you will be admitted to prove the same at the Trial of the Cause. Some only get the Proclamations indorsed by the Chirographer, on the Indenture of Fine in their Custody; but Q. whether this is so safe a Way as the other?

Of suffering Recoveries.

First, Of suffering a Recovery by the Parties appearing in Person at Bar.

DRAW your *Præcipe* on Paper, naming the Tenant and the Demandant, the Quantity of Messuages, Acres of Land, &c. with the Places where they lie. Voucher to Warrant, &c. in the Margin.

Next go with the Tenant and Vouchee to *Westminster Hall*, and place them on the outside the Bar, (unless the Vouchee be a Peer, who in such Case is to be placed in the Middle of the Bar, between the King's Serjeants) and give the *Præcipe* to one of the Serjeants, who will count thereon, &c. and having subscribed his Name, will deliver the *Præcipe* back to you.

This done, pay the Serjeant's Clerk, if your Recovery be with a single Vouchee, 6s.

If with a double Vouchee, 8s.

If with a treble Vouchee, 10s.

If with a quadruple Vouchee, 12s.

And when the Tenant or Vouchee appears by Attorney, 4s. more.

Then give the *Præcipe* to the Secondary of that Prothonotary in whose Office you intend to pass the Recovery, and he will enter it in his Book, and write

under it at Bar; his Fee is 4*s.* 6*d.* and when by Warrant of Attorney, 2*s.* more. If the Court be so crouded that you can't get to the Secondary, give the Præcipe to the Cryer, who will take it to the Secondary, for which 'tis usual to give the Cryer 6*d.* N. B. The Serjeant's Clerk usually gets it marked for you by the Secondary, and takes his Fee and the Cryer's.

Of the Writ of Entry.

Having passed the Præcipe at Bar, make a Copy of it for the Curfitor of that County where the Lands lie, to make out a *Writ of Entry*, for which you pay him 7*s.* 6*d.* and 6*d.* more if the Parcels are very long.

Of Compounding it.

The Method of Compounding a Writ of Entry and a Writ of Covenant, being the same, *vide* **Compounding a Writ of Covenant**, p. 23.

The Writ being compounded, pay the Fine and the Office Fees, about 2*s.* in Term, and 3*s.* in the Vac. to the Receiver, whose Seat faces you as you go out of the Office, and who attends there every Morning for that Purpose, leaving it with him to make the proper Indorsement thereon.

Draught of Recovery.

While the Entry is passing, prepare a Draught of your Recovery, in which take Care to name the Parcels as they are expressed in the Writ of Entry; and to avoid Mistakes, leave the Draught to be perused by the Prothon. Clerk, and ask him for a Plea Roll to enter it upon, which must be of that Term the Entry is returnable.

Of Writ of Seisin, Return, Teste, &c.

Three Days after compounding, fetch away the Writ of Entry, which you'll find among the Writs in the furthestmost Window of the Office on the Left Hand, and make out a Writ of Seisin on a treble 6*d.* Stamp.

Of the Return.

This Writ must be returnable at least 15 Days after the Teste Day of the Return of the Writ of Entry; but if the Entry be returnable towards the latter End of the Term, so that there are not 15 Days between the Return of the Entry and the last Return of the Term, then the Seisin must be returnable forthwith; but if the Entry be returnable the last Return of any Term except *Easter*, then the Seisin must be returnable the first Return of the subsequent Term, and if returnable the last Return of *Easter* Term, then the Seisin must be returnable the second Return of *Trinity* Term.

Of the Teste.

This Writ must be tested the fourth Day inclusive from the Return of the Writ of Entry, as if the Writ of Entry be ret. on the Morrow of *All Souls*, the Writ of Seisin must be tested on the 10th of *November*.

Get this Writ signed by the Prothon. who takes nothing for it 'till he signs the Exemplification and seals the same, for which you pay 7*d.*

Of Indorsing Return of Libery of Seisin thereon.

Indorse the Sheriff's Return of Seisin thereon, which Seisin you may make to be delivered any Day between the Teste and Return of the Writ, so it be not on a *Sunday*, allowing that a Man may ride from *Westminster* to the Place where the Premises lie and back again by that Time, which may be supposed to be done in six Days in any Part of *England*; but see the Draught as settled for it.

Pin the Entry and Seisin together, and leave them at the Return Office kept at Prothon. *Wegge's* in the *Temple*, where you pay 1 s. 6 d. on each Writ for the proper Indorsement thereon. Two Days after call for your Writs at the Return Office, and leave the Entry at the Attorney General's Chambers for his Hand, whose Fees is 10 s. and in two Days more take it away, which is the last Office this Writ passes thro'.

Of Ingrossing Recovery on the Roll.

The Writs being passed, enter the Draught of your Recovery on the Roll, in a strong Ingrossing or Text Hand, as far as in *Mercy*, &c. and then in a small Hand to the End.

Of Exemplifying the Recovery.

Having entered up the Roll, exemplify your Recovery in a strong Ingrossing or Text Hand, on a 10 s. Stamp, beginning *GEORGE* the Second, &c. TO ALL to whom these our present Letters shall come, Greeting: KNOW YE, that amongst the Pleas of Land inrolled at *Westminster* before Sir *John Willes*, Knt. and his Brethren, our Justices of the Common Bench, (of the Term of *Easter*) in the Year of our Reign, upon the Roll it is thus contained; Writ of Entry returnable from *Easter-Day* in five Weeks; *Berks*, to wit, *A. B.* in his proper Person—beginning with the Roll, continue it in the same Hand to the End, without any breaking off, except when the Return of Seisin is with an *Ad quem Diem*, (of which see at last) in which Case, that Part must be on the folding up of the Exemplification, and afterwards in the same Hand and Line conclude thus, ALL and singular which Premises at the Request of the said *A.* (the Demandant) by the Tenor of these Presents we have commanded to be exemplified. In Testimony whereof we have caused our Seal appointed for sealing Writs in the Bench aforesaid to be affixed to these Presents. WITNESS Sir *John Willes*, Knt. at *Westminster*, the Day of in the Year of our Reign.

Cooke.

Of the Teste of the Exemplification.

The Teste of the Exemplification being governed by the Return of the Writ of Seisin, these Rules may be laid down. That,

If the Seisin be returnable forthwith, the Exemplification must be tested the last Day of the Term.

If returnable in the same Term Judgment is given, it must be tested some Day afterwards in the same Term.

If returnable of a subsequent Term, it must be tested the last Day of the Term Judgment is given.

Of Passing the Recovery with the Prothon. &c.

The Exemplification finished, carry it with the Roll and Writs to the Prothonotary's Office, and ask for the Recovery Remembrance of that Term the Writ of Entry is returnable; ingross the *Præcipe* thereon, and add in small Hand the Return and Teste of the Entry, with the Names of the Summoners, Pledges and Sheriff, as the Prothonotary's Clerk will shew you, and how to docket the same.

This done, examine the *Præcipe*, Writs, Roll, and Exemplification with the Prothonotary's Clerk, who will afterwards sign your Exemplification.

The Prothonotary's Fees on signing a Recovery are as under:

If with a double Voucher in Person, (as this we have given Directions in is) 13 s. If with a double Voucher by Warrant of Attorney, 1 l. 5 s. If with a treble Voucher, 2 l. And so according to the Number of Vouchers.

Of Sealing the Recovery.

Lastly, Get the Exemplification sealed at the Seal-Office, for which you pay 2s. 2d. and for a Box, and to the Sealer 10d. in all 3s.

Second, Of Suffering a Recovery by the Parties appearing by Attorney.

Having shewn the Method of Suffering a Recovery when the Tenant and Vouchee appear in Person at Bar, we will now give Directions for Suffering a Recovery when the Parties appear by Attorney.

When the Tenants or Vouches live distant from *London*, and cannot or will not appear in Person, they appear by Attornies, and the Warrant of Attorney for this Purpose may be taken two Ways:

1st, Either by any of the Judges of the Assize, (and as some say, by Serjeants at Law) in their Circuits, without a *Ded. Potestatem*. Or,

2^{dly}, By a *Ded. Potestatem* directed to Commissioners; but as the first is seldom practised, we shall give Directions only where it is by *Dedimus*; and as the Vouches usually make one who lives in Town Tenant to the Præcipe, who will appear in Person at Bar, a *Dedimus* to take the Acknowledgment of the Warrants of Attorney of the Vouches will be sufficient.

Of the Tenant's Appearance at Bar.

If your Instructions come out of the Country, and you as Agent are made Tenant to the Præcipe, make a fair Copy thereof, and appear at Bar.

If the Vouches live in Town, and yet don't chuse to appear in Person at Bar, draw a Præcipe on Paper, and appear yourself, if you are made Tenant, at the Bar; if not, go down with the Tenant to the Bar, observing the Directions before given on this Head.

Of the Dedimus to take the Warrant of Attorney of the Vouches.

Copy your Præcipe passed at Bar for the Cursitor to make out a *Dedimus* by, and write underneath Commissioners Names, (one of whom must be a Knight) for which you pay 1 l. 5s. 8d. and send it down into the Country; but if the Vouches live in Town, appoint two of the Commissioners to take their Warrants of Attorney, which must be wrote on Parchment without any Stamp, together with a Copy of the Præcipe, in the following Form:

Præcipe and Warrant of Attorney.

London, ss. } Command, &c. (the Præcipe.)

London, ss. } C. D. and E. his Wife (if she be a Party) whom A. B. (the Tenant)
} vouches to Warrant, appoint in their Stead F. G. and H. I. their
Attornies jointly and severally against K. L. to gain or lose of a Flea of Land, &c.

Taken and received by the said C. D. and

C. D.

E. his Wife, (and the said E. examined

E. D.

apart) the Day of in the Year

of our Lord 1757, before us

M. N.

O. P.

This

This done, annex the Warrant of Attorney to the *Dedimus*, and on the Back of the *Dedimus* indorse, The Execution of this Writ appears in a certain Schedule hereto annexed, under which the Commissioners present must subscribe their Names, and 'tis prudent, to examine the Writ apart before she acknowledges.

N. B. If your Instructions from your Client come Time enough in the Term, the usual Method is first to get your *Dedimus* sealed, and returned up again with the Warrant of Attorney, and then appear as Tenant at the Bar, and shew the Warrant of Attorney taken by the Vouchees.

Of Entry, Mittimus and Transcript.

Carry this *Dedimus* and Warrant of Attorney to the Curfitor, and he will make out a Writ of Entry, Mittimus and Transcript, for which you pay 1 *l.* 1 *s.* which is 7 *s.* 6 *d.* for the Writ of Entry, and 13 *s.* 6 *d.* for the Mittimus and Transcript. Next carry your Writ of Entry to be compounded, the Draught of your Recovery to be perused by the Prothon. Clerk, and ask for Rolls to enter the Proceedings on, as before directed.

To know what Term the Rolls are to be of.

If the Writ of Entry and Summons are both returnable the same Term, then all the three Rolls, to wit, the Summons Roll, and the two Recovery Rolls (for it commonly takes up two Rolls) must all be of the same Term; or you may make two Rolls do, by beginning to enter the Mittimus and Transcript at a little Distance after the Warrant of Attorney on the first Roll; but if the Writ of Entry and Summons are returnable in different Terms, then the Summons Roll must be of that Term the Entry is returnable.

While the Writ of Entry lies at the *Alienation-Office*, make out the Summons and Seisin, sign them with the Prothon. and seal them in order to have them ready to carry with the Entry to the Return-Office, where you pay 4 *s.* 6 *d.*

Of the Return of the Summons.

By Stat. 24 G. 2. c. 48. for the Abbreviation of *Michaelmas* Term,

It is enacted, for the more speedy perfecting Recoveries, That from and after the Feast Day of St. Michael 1752. all and every Writ of Summons shall be abridged to four Returns inclusive, therefore the Summons must now be returnable the fourth Return after the Return of the Writ of Entry, including the Return of the Writ of Entry for one; as if the Writ of Entry is returnable on the Morrow of *All Souls*, then the Summons must be returnable from the Day of St. Martin in fifteen Days.

N. B. It is likewise further enacted by the said Act, That from and after *Michaelmas* 1752. all Writs and Process hereafter to be made out of any of his Majesty's Courts at *Westminster*, and having Day from the fourth Day of the Morrow of the *Ascension* to the Morrow of the *Holy Trinity*, shall be good and effectual, notwithstanding there be not fifteen Days between the Teste and the Return of the said Writs.

Of the Teste of the Summons.

It must be tested the fourth Day inclusive from the Return of the Writ of Entry; as if the Writ of Entry be returnable on the Morrow of *All Souls*, the Summons must be tested the 10th of *November*.

Of the Return of the Seisin.

The Seisin must be returned on some Return fifteen Days at least after the Teste Day of the Return of the Writ of Summons; but if there are not fifteen Days between the Return of the Summons and the last Return of the Term, the Seisin must be returnable forthwith. If the Summons be returnable the last Return of any Term except *Easter*, then the Seisin must be returnable the first Return of the subsequent Term; and if returnable the last Return of *Easter* Term, then the Seisin must be returnable the second Return of *Trinity*.

Of the Teste of the Seisin.

It must be tested the fourth Day inclusive from the Return of the Summons, as above.

Indorse Return of Seisin as shewn in the Recovery at Bar, and after you have taken away the Writs from the Return Office, carry the Entry for the Attorney General's Hand, as there likewise is directed.

While the above Writs are passing, you may be entering up the Rolls, and exemplifying the Recovery, or you may stay 'till they have gone thro' all the Offices. The Method is this:

Of Entering up the Summons Roll.

On the Summons Roll begin with the Draught of your Recovery, in a large Ingrossing or Text Hand—*L. ff.* and continue that Hand till you come to the Warrant of Attorney, (and upon this, &c. Plea aforesaid, &c.) which must be wrote in a small Hand, and ends the Summons Roll.

Of Entering up the Recovery Roll.

Next begin on the Recovery Roll in a small Hand as follows:

Our Lord the King hath sent here to the Justices of the Bench his Writ of *Mittimus* closed, together with the Tenor of his said Majesty's certain Writ of *Dedimus Potestatem*, for receiving the Warrant of Attorney, and the Return of the same Writ, and also the Warrant of Attorney, taken thereon in these Words, *George, &c.* going on in the same Line and Hand with the Writs *verbatim* to the End, entering the *Mittimus*, which is the smallest Writ, first.

The Writs being entered, begin a new Line in a strong Ingrossing or Text Hand, *Elsewhere*, as it appears in the Term of last past, upon the Roll, (*viz.* the Summons Roll) 'tis thus contained, Writ of Entry returnable, &c. *L. ff.* going on as far as *Mercy, &c.* and then in a small Hand to the End.

But if the Summons Roll and Recovery Roll are of the same Term, then instead of saying the Term of *East.* last past, say this same Term; or if you begin to enter your *Mittimus* and Transcript after the Warrant of Attorney on the Summons Roll, which you may do if you please, then say, *Elsewhere*, as it appears of this same Term on this same Roll, it is thus contained.

Of Exemplifying the Recovery.

Having entered up your Rolls, exemplify your Recovery in a large Ingrossing or Text Hand, on a 10 s. Stamp, beginning, *GEORGE, &c. TO ALL to whom these our present Letters shall come, Greeting: KNOW YE, that amongst the Pleas of Land inrolled at Westminster, before Sir John Willes, Knt. and his Brethren, our Justices of the Bench, of the Term of in the Year of our Reign, upon the and Rolls (viz. the Recovery Rolls) it is thus contained, Elsewhere, as it appears (as on the Roll) upon the Roll it is thus contained, Writ of Entry returnable on, &c. L. ff. going on as in a Recovery at Bar, and pass the same as there directed.*

When the Ad quem diem must be on the folding up of Label (as 'tis called) of the Recovery.

As this may happen both in Recoveries at Bar, and in those suffered by Attorney, we have placed it last, therefore observe,

That if the Writ of Entry or Summons be returnable so late in the Term, that the Writ of Seisin cannot be made returnable the same Term, but that it must be returnable the next Term, after having awarded the Return of the Writ of Seisin, go on with *All which, &c.* and upon the folding up of the Exemplification, write in the same Hand the *Ad quem Diem, &c.*

Caveat.

By Leave of the Court a Caveat may be entered at the three Prothonotaries Offices and with the King's Silver, to prevent a Recovery or Fine passing without Notice being first given where such or such a Person will be Vouchee or Cognizor.

If you have Occasion to search for a Recovery, the Warrant of Attorney Office is the proper Office, where you pay 4 d. a Term searching.

N. B. No Warrant of Attorney is filed at the Warrant of Attorney Office on a Writ of Entry as on a Covenant; neither need the Entry be marked by the Cusitor, for no Post-Fine is due thereon.

Cities and Towns having a Sheriff or Sheriffs.

Cities of *Bristol, Coventry, Chester, York, Gloucester, Lincoln, London, Norwich,* and Town of *Nottingham,* have two Sheriffs.

Cities of *Canterbury, Exeter, Litchfield and Worcester,* have one Sheriff.

Towns of *Kingsion upon Hull, Southampton, Pool and Newcastle upon Tyne,* have one Sheriff.

TERMS and RETURNS for the Year 1759.

Hilary Term begins *Jan. 23.* ends *Feb. 12.*

Returns or Essoin-Days.

	Exc.	Ret.	Ap.
In eight Days of St. Hilary,	Jan. 20.	21.	22. 23.
From the Day of St. Hilary in fifteen Days,	27.	28.	29. 30.
On the Morrow of the Purification of the Blessed Mary, <i>F. b.</i>	3.	4.	5. 6.
In eight Days of the Purification of the Blessed Mary,	9.	10.	11. 12.
			Easter

Easter Term begins *May 2.* ends *May 28.*

	Exc.		Ret.	Ap.
From the Day of <i>Easter</i> in fifteen Days,	<i>April 29.</i>	<i>30.</i>	<i>May 1.</i>	<i>2.</i>
From the Day of <i>Easter</i> in three Weeks,	<i>May 6.</i>	<i>7.</i>	<i>8.</i>	<i>9.</i>
From the Day of <i>Easter</i> in one Month,	<i>13.</i>	<i>14.</i>	<i>15.</i>	<i>16.</i>
From the Day of <i>Easter</i> in five Weeks,	<i>20.</i>	<i>21.</i>	<i>22.</i>	<i>23.</i>
On the Morrow of the <i>Ascension</i> of our Lord,	<i>25.</i>	<i>26.</i>	<i>27.</i>	<i>28.</i>

Trinity Term begins *June 15.* ends *July 4.*

On the Morrow of the <i>Holy Trinity</i> ,	<i>June 11.</i>	<i>12.</i>	<i>13.</i>	<i>15.</i>
In eight Days of the <i>Holy Trinity</i> ,	<i>17.</i>	<i>18.</i>	<i>19.</i>	<i>20.</i>
From the Day of the <i>Holy Trinity</i> in fifteen Days,	<i>24.</i>	<i>25.</i>	<i>26.</i>	<i>27.</i>
From the Day of the <i>Holy Trinity</i> in three Weeks,	<i>July 1.</i>	<i>2.</i>	<i>3.</i>	<i>4.</i>

Michaelmas Term begins *Nov. 6.* ends *Nov. 28.*

On the Morrow of <i>All Souls</i> ,	<i>Nov. 3.</i>	<i>4.</i>	<i>5.</i>	<i>6.</i>
On the Morrow of <i>St. Martin</i> ,	<i>12.</i>	<i>13.</i>	<i>14.</i>	<i>15.</i>
In eight Days of <i>St. Martin</i> ,	<i>18.</i>	<i>19.</i>	<i>20.</i>	<i>21.</i>
From the Day of <i>St. Martin</i> in fifteen Days,	<i>25.</i>	<i>26.</i>	<i>27.</i>	<i>28.</i>

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To prevent any *Imposition* upon the Publick, the Proprietors, JOHN WORRALL and WILLIAM REEVE, think it necessary to distinguish such Copies as are *Correct*, by subscribing either of their Names to this Notice.

Ap.

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